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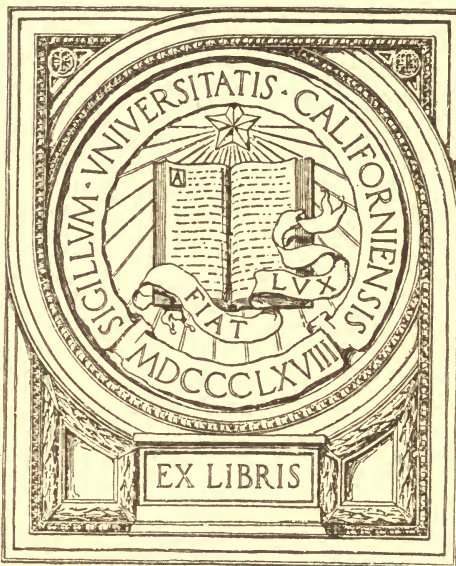


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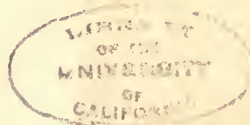
THE TILDEN CENTENNIAL  
CARNEGIE HALL  
NEW YORK

SAMUEL J. TILDEN  
THE GREAT DEMOCRAT

ADDRESS OF FRANCIS LYNDE STETSON

10 FEBRUARY, 1914

(Annotated)



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## SAMUEL J. TILDEN

### THE GREAT DEMOCRAT

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To appreciative sympathizers like James C. Carter and the speakers of this evening, the name of Samuel J. Tilden suggests a statesman in the highest sense; to antipathetic but fair-minded historians like Professor Burgess (*Reconstruction* p. 282) "a genuine American politician of the first order", and to some partisan detractors merely a political trickster. But, however varying the views as to his rank in the political world, all unite in recognizing him as "The Great Democrat". (*New York Sun* June 3, 1886.) To this designation he was entitled as clearly as was his illustrious predecessor Thomas Jefferson or James Madison, who was still surviving at the time of Tilden's first vote, and whose works and teachings constituted his highest political authority. (*Life* Vol. 1, p. 166.)

Born February 9, 1814, during the presidency of James Madison, he died August 4, 1886, under that of Grover Cleveland, having lived seventy-two years, of which more than one-half had been during Democratic administrations

From first to last he devoted himself to the study and the discussion of the tenets of the Democracy, for, as is well said in the *Bookman* (March 1905):

"Born with a body so frail that he never knew a day of perfect health, he had no boyhood, but even as a child his mind was given wholly up to the mastery of government and politics. In his father's home he heard political discussions between some of the most adroit and wily party managers of that day. By the time when he was fifteen years of age he was as well informed in American political history as any one of those whose revelations he had listened to so eagerly."

His precocious gravity was noted by his life long friend William Allen Butler in a memorial prepared for the New York City Bar Association in December, 1886:

"To him the years which bring the philosophic mind came very early. In my acquaintance with him, dating



“ from my boyhood and continuing through the friendship  
 “ of nearly half a century, I found him unchanged, from first  
 “ to last, in this absorbing interest in public affairs, specially  
 “ directed to their right administration, according to the ideas  
 “ which were, to him, the true embodiment of the principles  
 “ of good government.”

Among his early teachers was his wise father's friend and neighbor Martin Van Buren, soon to become President of the United States, to whose cause and advocacy he devoted himself for life, and Mr. Butler's father, Benjamin F. Butler, Attorney-General of the United States. Before he was twenty years of age he wrote the first three articles reproduced by Mr. Bigelow (1 Public Writings 10-26), all of these being published at the suggestion of Mr. Van Buren and the last with the approval of Washington Irving. In their gravity and acumen they revealed the qualities which distinguished the career of Mr. Tilden, and in its concluding paragraph the last article foreshadowed his own bitter experience, not unlike that of the maligned Gladstone who was one of his admirations. (Life, Vol. 2, p. 338.)

“ In every age the most important and glorious results of  
 “ virtue and of talent have been attributed to the arts of in-  
 “ trigue or the aid of magic.”

After a short sojourn at Yale College, in 1836 he came to the City of New York, of which he was destined for fifty years to be a citizen and up to the time of his death, its greatest benefactor. Graduating from the first class in the law school of the New York University he was admitted to the bar in May 1841 and immediately opened an office at No. 11 Pine Street, continuing in that vicinity until he retired from practice. Already, and as early as February 1838, he had attained recognition as a political writer for the Democratic press, and as author of the resolutions and political addresses issuing from Tammany Hall. In the year 1838 he formed the acquaintance of John Bigelow, his life long friend and biographer, who says that even then Tilden's mind was wholly engrossed in practical

politics about which he knew so much and talked so well as often to weary Bigelow, who cared nothing for them. Through Mr. Bigelow he became a friend of William Cullen Bryant and of the Evening Post coterie.

His first important speech was deemed a masterly production, and as such it was justly accepted and published throughout the state by the Democratic Committee. It was delivered at New Lebanon on October 3rd, 1840, when he was twenty-six years old, upon the United States Bank and the currency, a topic of perennial interest, to which he returned in an important speech in the Constitutional Convention of 1846, and to which a further contribution from him at the present day would be of vital interest.

The five years succeeding his admission to the bar were devoted to the support of Martin Van Buren and Silas Wright and to the development of his law practice though as once he said to me, from the very beginning he never had any small business. The Anti-rent wars in his native county enlisted his attention and led to his election to the Assembly and to the Constitutional Convention in 1846, where he principally contributed to the final adjustment of these difficulties. During the same period he had founded and given to his associate John L. O'Sullivan a Democratic daily "The Morning News" and had identified himself with the free soil or "soft shell" Democrats, who opposed the extension of slavery into the free territories. In 1848 he wrote the address to the Democrats of the State in support of the Free Soil revolt which resulted in the defeat of Lewis Cass for the presidency, the bolters in the State of New York casting more votes than the regulars. In 1855 he was candidate of the "soft shell" Democrats for Attorney General, and in 1867 he was a member of the Constitutional Convention. He was delegate to the Democratic National Conventions of 1844, 1848, 1860, 1864, 1868, contending invariably for freedom, for Union and for reform.

Repeatedly baffled in his efforts to face the Democratic party in a direction which he knew would lead to success, he patiently accepted defeats within the organization and gave himself unselfishly to its continuous service, recognizing and insisting upon the necessity of maintaining in proper constitutional opposition, a party which even in the dark days of 1864 cast forty-six per cent. of the vote in the Northern States. He was consistently opposed to nullification, to the extension of slavery and to secession and its supporters, as shown in 1860 at the dinner at Mr. Aspinwall's, in 1861 at the meeting at the home of General Dix, in 1862 in his interview with Secretary Stanton, and his declaration in behalf of the Democratic party, and in 1866 at the Union Square meeting, all set forth in Mr. Bigelow's *Life* (Vol. 1, pp. 165-174). In 1862 he prepared a manifesto for the New York Democracy with these words of inflexible warning to Southern disunionists :

“ We will give you everything that local self-government demands ; everything that a common ancestry of glory, everything that national fraternity or Christian fellowship requires ; but to dissolve the federal bond between these states to dismember our country, whoever else consents, we will not. No ; never, never, never ! ” <sup>(1)</sup>

In 1866 he took the chairmanship of the Democratic State Committee which he held until nominated for Governor in 1874 ; and, by his inflexible maintenance of the public interests, he earned the bitter hatred and the never failing opposition of the spoilsmen and corruptionists in and out of his party. His attitude of uncompromising warfare for the public welfare and of trust in the people was exhibited in his speech before the Legislature of 1870 in

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<sup>(1)</sup> Similarly courageous was his remarkable letter of October 24, 1876, repelling a late campaign charge that if he became President he would approve provisions for the payment of “ the rebel debt and for losses of slaves ” (1 *Public Writings*, Vol. 2, p. 380 ; *Life*, Vol. 2, p. 6). As told to me at the time by William C. Whitney, Mr. Whitelaw Reid said to him that the Republicans were dumbfounded by this unexpected refutation which he practically accepted as complete (See *Tribune*, Oct. 25, 1876).



opposition to the Tweed Charter, about to be enacted by a corrupt combination of Tweed democrats and Tweed republicans. He said :

“ I am not afraid of the stormy sea of popular liberty. I still trust the people. \* \* \* It is in the stagnation of bureaus and commissions that evils and abuses generate. The storms that disturb the atmosphere clear and purify it.”

In all of his political activities an appeal to the people at large was the predominant and prevalent note. By clarion calls he reinvigorated and recruited the ranks of his party in his own state, weakened by factional dissensions and shattered by frauds. Without hesitation he invited and he incurred the vicious animosity of the corruptionists, opposing against them the awakened courage and will of a better element recently stifled, but now strengthened and reinforced from without by youth of independent disposition. He knew that the people, particularly the young men, love a leader who fights, especially one who fights for the right. Most sagaciously he declared that, “ If once you can make your issue a moral issue, you are sure to win the people.”

He was absolutely sincere and truthful when in his letter to Mr. Watterson (*Life*, Vol. 2, p. 312), referring to the principle on which he based his management of his party in New York, he said :

“ I depended on ideas as a political force more liberally and less on party machinery than any one else has done. What is called patronage I never had to any appreciable extent and yet I held my ascendancy with the Democratic masses of this State \* \* \*. I carried on politics on a plane which approached to the impracticable.”

This statement finds confirmation in the “ Random Recollections ” of Henry B. Stanton :

“ When those animosities, rivalries, and prejudices that spring from party strife have passed away, Samuel J. Tilden will be classed among the eminent men of his era. In the two rather incompatible qualities of calm, studious, and philosophic statesmanship and the capacity to gather, classify, and apply the statistics of a political campaign I

do not remember to have met his equal. As the chairman of the Democratic State Committee, he would deliver an address that might have honored Thomas Jefferson."

Mr. Tilden's fight against Tweed and Tweedism was a moral fight; a fight to the finish; and a fight without parallel in its masterly method and overwhelming destructiveness. He had had no faith in the men who became known as the Ring and with reason they feared him. He never conciliated them or turned to avoid a collision with them even when they were strong in the party of which he was manager (*Public Writings*, Vol. 1, p. 564). He assisted powerfully in the organization and in the activities of the Association of the Bar of the City of New York, as a most effective agency for the rescue and restoration of the Courts which then were under an eclipse, happily described by Mr. Evarts as "an annular eclipse, in which only the ring is visible."

At the organization of the Bar Association as stated by one present (Mr. William Allen Butler) Mr. Tilden "made the "most stirring speech of the hour, unpremeditated, but striking the keynote of the effective denunciation which aroused "and quickened public sentiment to the need of instant "action" (*Life*, Vol. 1, p. 186). In the prosecution of his campaign for purity of justice, Mr. Tilden went to the Assembly of 1872 and secured the impeachment of the judges. Respecting this, we have the testimony of Mr. O'Connor that it was "all Tilden's work and no one's else."

"Tilden went to the Legislature and forced the impeachment against every imaginable obstacle, open and covert, political and personal" (*Public Writings*, Vol. 1, p. 473).

Defying and defeating the efforts of the corruptionists in 1869 to displace him from the chairmanship of the State Committee, he gave his support to the independent Democracy in the City of New York not only in opposing the Tweed charter of 1870, but again in the successful revolution of 1871. Then it was that I had with him my first personal

experience. On the afternoon of election day when as correctly stated by him (Public Writings, Vol. 1, p. 597-8) "general despondency prevailed" he was seated on a sofa in the insurgent headquarters at Apollo Hall deprecating the croakings of one hopeless of success ; a timid soul that exaggerated the power of the abhorrent forces arrayed in a life and death struggle under the truculent Tweed, even yet a candidate and, as it proved, a successful candidate for re-election to the Senate. A wail of despair such as this was beyond endurance by a youth burning with righteous zeal. My hot indignation blazed forth in the splendid verse, that Shakespeare puts into the mouth of Henry VI. "Thrice is he armed that hath his quarrel just." Mr. Tilden immediately turned and fixed on me his look of approval, and thenceforth gave me his friendship, asking me to render the service indicated in my letter to him dated November 22, 1871 (Letters, Vol. 1, p. 288), and appointing me secretary when elected Governor in 1874. The incident is worth relating only as indicating the principle that governed his selection, his attraction and his retention of youthful supporters.

The story of the fight against the Tweed ring, gloriously inaugurated by the New York Times (whose present editor most happily is member of this Centennial Committee) is part of the history of this City from 1871 to 1874. The political victories resulting from the Times disclosures, promoted personally and financially by Mr. Tilden, were supplemented by civil and criminal prosecutions made effectual exclusively through his personal investigation, accumulation and presentation of the proofs of fraud. If proofs be needed of Mr. Tilden's patriotic and professional superiority they will be found in Mr. James C. Carter's summary and authoritative appreciation of these professional achievements without precedent or parallel. (Atlantic Monthly October 1892 : Letters, Vol. 1, p. xviii.)

Public service of such commanding importance compelled his nomination and his election to the highest executive position in the State. On New Year's Day 1875 he took the place of the veteran statesman, General John A. Dix, his party associate of thirty years, whom he had desired for Pierce's Cabinet in 1853 (Letters, Vol. 1, p. 84) for President in 1864 and for Governor in 1862 (Letters, p. 167) and in 1866 (Letters, p. 204), but whom, upon the issue of administrative reform, he had defeated for Governor in 1874. An era was closing; a new day was dawning. The clouds generated by slavery, secession, civil war and reconstruction slowly withdrawing, were to obscure the issues of only one more political campaign, though unhappily that was to be the contest of 1876 finally and fatefully involving Mr. Tilden's political fortunes.

Mr. Tilden's brilliant achievements during his term as Governor also are matters of history. His instantaneous and complete rout of the canal ring <sup>(1)</sup>; his fight for administrative reform and for sound money, his second annual message regarded by Mr. Carter as a state paper unequalled "in the power and ease in which it treats of the principles

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(1) The immediateness of the success of his legislative attack upon the canal ring so impressed the legislative barber of that day that he remarked to the late Edgar K. Apgar "What a wonderful fighter Governor Tilden is. He would have finished the Civil War in six months." Mr. Apgar on a winter night walking home with the Governor, repeated to him the barber's remark. Immediately the Governor stopped and keeping Apgar standing on the snow covered pavement, occupied large part of an hour in justifying the statement, and in explaining how quickly he would have accomplished what in fact it took four years to do! His ideas as to the art of war had been formed on a study of Napoleon, and he said to Mr. Bigelow (Life, Vol. 2, p. 386) "that nothing would have suited him so well as a military career." His keen insight into military conditions was illustrated in his advice to Secretary Stanton (Life, Vol. 1, p. 169) "You have no right to expect a great military genius to come to your assistance. The whole human race have been able to furnish such men only once in a century or two: you can only count on the average military talent \* \* \* In the probable absence of military genius you must rely on overwhelming numbers wisely concentrated." Two years later Mr. Stanton referred to this advice with approval.

upon which government should be conducted or in the order and perspicuity with which it arranges and sets forth the details of public business" all these and other acts of that gubernatorial term will be presented this evening by the distinguished gentleman Mr. Fairchild who was associated then as Attorney General with Governor Tilden and afterwards as Secretary of the Treasury with President Cleveland.

His qualities as party manager and as party leader were well summed up in the New York Sun of June 3, 1886 in an article entitled "The Great Democrat. Samuel J. Tilden and the Development of his Political Philosophy," quoting from the Critic a review of his Public Writings.

"He leaves perhaps a more definitely crystalized system of political philosophy than any American Statesman who is or has been his contemporary. Those who agree with him and those who dissent from his views of the fundamental principle will be alike impressed with the consistency of the man as here made up. He has been for half a century one of the few original thinkers in American politics one of the very few who have succeeded throughout the vicissitudes of party strife in making expediency bend always to philosophy. With all Mr. Tilden's consummate skill in the arts of partisanship it is surprising how little of the partisan in the narrow sense appears in his declarations. His calm thought and wise fore-thought have illuminated every one of the great questions of the last fifty years, and yet whose recorded utterances considered as a whole, or in detail can better stand the test in the light of present knowledge?

\* \* \* \* \*

We think that the bitterest political enemy of Mr. Tilden cannot study his life record as here presented in its entirety without reaching the conviction that he rose steadily to commanding influence by virtue of the highest qualities of statesmanship, nor without increased respect for the sincerity of his motives, the wisdom and unswerving loyalty, his patriotism and the unselfishness of a career that ends with dignity in the memorable letter declining for a second time a nomination that meant election."

Mr. Tilden's system of political philosophy referred to by the writer of the Critic's article anticipated by many years,



much that strenuous reformers of the present day imagine to have been born with them.

1. As already indicated by me, (and as recognized by Mr. Choate: "The World" February 8, 1914), his fundamental principle, was *trust in the people*.

2. Reforms must come from the plain people and not from above.

"All history shows that reforms in government must not be expected from those who sit serenely on the social mountain tops enjoying the benefits of the existing order of things" (Life, Vol. I., p. 288).

In 1874 he said to a political committee, of which I was a member, calling on him to tender our support :

"I appeal particularly to the poor man, whose home is fixed and difficult of change. He is concerned in matters of government more vitally than the rich man who, removing his residence with comparative ease, can escape the oppressions of a government that he regards as intolerable."

3. A higher standard of political conduct was essential.

In his letter to Eugene Casserly dated July 3, 1872 (Letters, Vol. 1, p. 310), a personal letter to a friend and consequently free from suspicion as a play to the public, he said :

"It is rarely if ever possible for a party in office to reform itself by the internal force of its best elements. We must have a better state of things in national, state and municipal government, and a higher standard in the public mind by which official men will be tried, and to which they will refer in their silent meditations and in their actions, if we would preserve anything of value in our political system."

4. Class legislation is vicious. Therefore he persistently opposed the Republican party regarded by him as supporters of class legislation.

In his last political letter dated October 6, 1884, and addressed to a Committee of the Democratic National Convention he said (Life, Vol. 1, p. 287) :

“ The Republican party has always been dominated by principles which favor legislation for the benefit of particular classes at the expense of the body of the people \* \* \* The patriotic and virtuous elements in it are now unable to emancipate it from the sway of selfish interests which subordinate public duty to personal gain. The most hopeful of the best citizens it contains despair of its amendment except through its temporary expulsion from power.”

In the year 1912 this view seems to have been adopted by approximately four million former Republicans.

5. A reformed judiciary an essential of good government.

“ A reform in the administration of justice \* \* \* was not only inimically the most important \* \* \* but was a measure without which every other reform would prove nugatory ” (Public Writings, Vol. I., p. 598).

Indeed on this point he went so far as to state in a letter to the Times in January, 1873 (Public Writings, Vol. 1, p. 594), that, in case the Courts should fail in their duty against the ring, he had resolved to open an issue in advance of the election of the new legislature,—a convention to revise the judiciary. This would seem to come pretty near to the judicial recall, though in practice he clearly indicated the sufficiency of the process for impeachment ” (Public Writings, Vol. 1, p. 482).

6. Accountability of public officers practically enforceable through the Courts.

The reform of legal procedure to this end was called for in his first message as Governor (Public Writings, Vol. 2, p. 34) and was accomplished by the acts, Chapters 23 and 49 of the laws of 1875, earnestly desired by Mr. O’Conor (Life, Vol. 1, p. 247).

7. Investigation of the causes of the growth and decay of population, mortality, pauperism and crime ; in short, the so-called sociological research of the present day.

All of these phenomena in his view, as stated in his address in 1876 to the Saratoga Conference of Charities

(Public Writings, Vol. 2, p. 374), were susceptible of scientific analysis. He said :

“ A conference of charities. What a noble rivalry is implied in these words. You are here \* \* \* not even to promote the well being of those communities which you represent ; but to consider what can best be done to cure the wounds and maladies of society. \* \* \* Even those most uncertain things that depend on the human will are capable of being studied, of being analyzed, of being classified and their results stated.

Except for the limitation of time necessarily imposed by the programme of the evening I could much extend my scheme of his political propaganda.

My duty now is to hasten to a summary discussion of the events connected with the election of Mr. Tilden as President of the United States in 1876, the denial of his right, and his patriotic submission to monumental injustice, rather than subject his country to the possibility of civil strife.

At midnight of Election Day, November 7, 1876, bearing the latest news I went from the rooms of the Democratic National Committee to the residence of Mr. Tilden on Gramercy Park. The returns then indicated that he had carried four Northern States, New York, New Jersey, Connecticut and Indiana, and every Southern State excepting possibly South Carolina, thus having at least 196 electoral votes, a clear majority of the whole, with fair prospects in California and Oregon, which, however, never materialized. A brilliant assemblage of men and women of high social position, the usual associates of Mr. Tilden, was gathered there in gay spirits to congratulate him, for already his confident expectations were in course of realization. The democratic city was hilarious, and the Republican centres correspondingly depressed. Every newspaper claimed or conceded Tilden's election except the Times and the Herald, which reserved decision. Within twenty-four hours, however, a new set of claims developed ; that in every one of

the three Southern States under Republican Governors, South Carolina, Florida and Louisiana, the vote though cast for Tilden might be counted for Hayes. Within one hundred days these claims were fulfilled to the dot. Tilden votes were given to Hayes; and he was declared to have received 185 electoral votes as against 184 for Tilden.

The story of this great wrong has been told again and again, and most recently in the *Century Magazine*, which, in May, 1913, published Mr. Watterson's slashing attack upon the republican procedure, and in June, Senator Edmunds' weighty answer, together with Mr. Watterson's keen rejoinder which begins with the statement,

"If I may say so, without departing from the respect  
 "and regard in which I hold Senator Edmunds, he has  
 "made rather a case at law than a contribution to history.  
 "With the trained skill of an expert he emphasizes all that  
 "may be pleaded on his own side while either ignoring or  
 "belittling the strength of the other side."

This, also, is my view, of the venerable and beloved Senator, distinguished alike for his character, and his ability and not less for his unquenchable devotion to his party. His party loyalty is sufficient to explain and perhaps to excuse his Senatorial votes in 1868 to impeach Andrew Johnson and in 1887 against the measure of his party colleague Senator Hoar to repeal the "Tenure of Office Act" passed originally to fetter Johnson. According to Senator Hoar (*Autobiography*, Vol. 2, p. 143) Senator Edmunds fought this repeal with all his might and main. He bitterly characterized Grover Cleveland as "another Charles the First" because in the exercise of his constitutional right he declined to communicate to the Senate his reasons for removing a public officer.

Ingrained partisanship of course cannot yield an impartial estimate, and it must be conceded that nearly all on either side who either participated in the dispute over the presidential election of 1876, or who have attempted to write its history have been influenced if not controlled by

party affiliations. The most reasonable Republican view is presented by Professor Burgess (*Reconstruction* p. 295) and, as usual, the fairest view is taken by Mr. James Ford Rhodes (*History of the U. S. Vol. VII, p. 282-285*).

Time does not allow, nor does the present occasion require, a re-examination of the facts ; but considering only Florida and Louisiana, each necessary to Hayes—I may be permitted with intended moderation to state in summary why, after examination of the evidence, the law and the procedure, I believe that, unless the precedents and the just principles of our system of elections were to be overturned, Mr. Tilden was chosen President on Election Day in 1876.

1. In the first place, the votes on that day actually deposited in the ballot boxes were found, and in the due and ordinary count by the local canvassing boards were determined, to be such that in the aggregate they were sufficient to elect Mr. Tilden. Never before or since has a presidential election been determined in defiance of such a showing. The national practice has been and should be to accept the will of the people as exhibited by their votes in the several localities independent one of the other, and not to permit these to be overruled by a central authority tempted to tamper with the result, because of a later knowledge of the necessities of the general canvass. To-day in any part of our country such an attempt to set aside the local determinations, except through the courts would be unthinkable.

2. The proceedings of the State Canvassers in Florida and of the Returning Board in Louisiana overruling local boards were not only without precedent or repetition in any contested presidential election, but to say the least were grossly partisan, with grave indications of corruption, and apparently in unlawful usurpation of power.

3. In Florida the gallant and honorable Republican watcher General Barlow reported that Tilden had carried



the State, <sup>(1)</sup> and he urged such a declaration upon Dr. Cowgill one of the two Republican members of the State Canvassers who had said to General Barlow that "he could not conscientiously vote to give the State to the Hayes Electors." [H. R. Misc. Doc. 31, 45th Cong. 3rd Sess. 1363.] The third member of the Board, Attorney General Cocke a Democrat, took the same view as that expressed by Dr. Cowgill whose violation of conscience thus gave Florida to Hayes. That the canvassers had no lawful power to do as they did do was determined with reference to their simultaneous proceedings in canvassing the vote for Governor. The Republican Supreme Court adjudged that the Board had usurped revisory power, and commanded it to reconvene and to re-canvass the vote for Governor according to the local returns. This resulted in seating the Democratic candidate for Governor.

Thereupon in *quo warranto* proceedings touching the presidential vote the Circuit Court in Florida adjudged that the Hayes Electors had not been, and that the Tilden Electors had been, lawfully chosen, each having cast their votes simultaneously on the day prescribed by Congress. <sup>(2)</sup>

<sup>(1)</sup> Dr. Haworth justly and highly appreciates the value of any statement from General Barlow, the hero of Gettysburg and of Cold Harbor, as fearless in peace as in war. But, Dr. Haworth may be relieved of his uncertainty (Disputed Elections, p. 75) "whether General Barlow's opinion in the case was in any measure due to a tendency sometimes noticeable in high minded persons to concede all doubtful points to an opponent." General Barlow certainly was high minded, but equally he was a born contestant and in controversy he never conceded any point that he believed could be maintained in honor and logic. From personal knowledge I state that in December, 1876, he left New York for Florida persuaded that that State had gone for Hayes, and believing and desiring that such result should be established by the canvass of the votes.

<sup>(2)</sup> The fact that the judgment was that of a lower court from which an appeal was taken was immaterial in law, and also in view of the significant fact that the Hayes' counsel, General Wallace, had refused the Tilden counsel's offer and request for an immediate argument of his appeal, saying that he would return to argue it as matter of law in the succeeding July 11

These *quo warranto* proceedings were examined critically by me in conference with Mr. Tilden, while he was preparing the brief No. 2 submitted to the Electoral Commission (p. 745) and I was preparing the brief No. 3 submitted by Mr. W. C. Whitney (p. 760). Ample reasons in support of the effect of the *quo warranto* judgment are to be found in those briefs, and in the convincing arguments of those great lawyers Charles O'Connor and Richard T. Merrick and of Mr. Justice CLIFFORD. Both sides of the contention are fully stated also in the majority and the minority reports of the Sargent Senate Committee in January, 1877 (S. R. No. 611, pt. 4, 44th Congress, 2d Session). But the minority report has the advantage of support from General Barlow's letter (p. 12) and the judgment of the Florida Supreme Court on the law of Florida.

Mr. Justice BRADLEY's rejection of this judgment of a Florida Republican Court as to Florida law was determined (as was that of the majority report above mentioned) by the technicality, that the judgment was rendered too late, though it was rendered and published for common knowledge long before Congress was called upon to act. If this judgment could have been rendered and had been rendered as soon as the proceedings therefor were instituted by the service of the original writ, (upon December 6, 1876, before the usurping electors had voted),<sup>(1)</sup> presumably it would have been upheld by Judge BRADLEY, though still his hospitable mind might have opened

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(<sup>1</sup>) It is true, (as observed by Mr. Dougherty), that in his argument Mr. Justice Miller stated that it was not shown whether the writ was actually served *before* the votes by the Hayes Electors or afterwards. In this particular however the fact is stated accurately in the argument of Mr. Justice Clifford, who found that the Tilden Electors by extreme diligence caused the writ to be served on the Hayes Electors "*before they cast their votes.*"

The apparent discrepancy is because Mr. Justice Clifford did, and Mr. Justice Miller did not, regard the record in the *quo warranto* proceedings

to some other suggestion of reasons for its rejection. Thus the great decision of this greatest of controversies affecting an entire nation went off upon a mere question of time and not of right. Posturing as bowing to the State's exclusive right to attest the validity of the choice of its own Electors, the Commission reached its decision in utter disregard of the State's own adjudication on this very point. No such decision upon a technical point (which in any view could

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as included within the Democratic offer to prove. Mr. Justice Miller referred contemptuously as follows to these papers of critical importance :

"It is strongly urged upon us that a large pile of papers, a half bushel, perhaps, in quantity, of the contents of which both the Commission and the two Houses of Congress (*how did he know this?*) are profoundly ignorant, has become legitimate evidence and must necessarily be considered by us, because they are in a very general way referred to in the objections to the Hayes-Wheeler certificates."

Of course, Mr. Justice Miller could correctly insist upon the observance of the strictest technicality in the actual reception of the proofs; but upon the preliminary question as to an offer of proof, it would seem that Mr. Justice Clifford was clearly correct in understanding the offer to include all that the accompanying records indicated would be proved if the offer were entertained by the Commission. However, in this instance as elsewhere in his argument, evidence may be found that one of our greatest constitutional lawyers was not disposed to disregard any point of party advantage, even though it were purely technical. This feature is due probably to the fact indicated in the official index of the report of the Electoral Commission that none of the members were called "Justices" but all "Commissioners" and that none of their utterances were called "opinions" but all "arguments." Every Commissioner on each side seems to have been doing his very best for his own party and had he failed so to do probably like General Barlow would have been exposed to abuse for treachery to his party. It is ever to be regretted that it was found necessary to drag the Supreme Court into a controversy essentially partisan in its nature.

Under the influence of such considerations it is not strange that Mr. Justice Miller accepted as of ultimate and controlling importance not the count of the ballots in the boxes but the revising certificate of the State canvassers already denounced by the State Courts. The general rule to the contrary is illustrated by the unanimous decision of the New York Court of Appeals in the leading case of *People against Cook* (8 N. Y., 67-82), that:

"It is by the popular expression by the voters through the ballot box that a title is derived to an elective office. The certificate of the Board of Canvassers is mere evidence of the person to whom the majority of the votes were given. \* \* \* When this proceeding (*quo warranto*) is instituted in the name of the people, the certificate loses its conclusive character and becomes only *prima facie* evidence of the right."

have been obviated by a short and simple act of Congress) <sup>(1)</sup> could be expected to command nor did it receive national approval any more than that in the Dred Scott case. At the time I had no doubt, and (notwithstanding the learned, and in my estimation, the upright Justice BRADLEY, whose printed argument begins with an acknowledgment of his change of mind) I have no doubt now that in view of that judgment in *quo warranto* the votes of the Hayes Electors in the State of Florida should not have been accepted either by the Commission or by the Congress.

The view which I have thus ventured to express is that also of Mr. Justice CLIFFORD which is quoted with high appreciation by Mr. Dougherty (The Electoral System, p. 158) as follows :

“ The Democratic contention was well stated with great impressiveness by Mr. Justice CLIFFORD, when he said :

‘ Repeated admissions have been made during the discussion that a state may determine what persons the qualified voters have chosen and appointed electors of President and Vice-President, but the proposition is advanced that the determination must be made before the electors meet and cast their votes, and that it cannot be made at any subsequent time. Antecedent investigation cannot be made in this case before the electors voted for the reason that the old board of state canvassers did not make their report until the day when the votes were cast, nor were the Hayes electors furnished with a certificate of the canvassers until that day.’

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(1) Adequate statutory provision for the future probably has been made by the Act of February 3, 1887, largely the work of Senator Edmunds at his best, unembarrassed by party necessities. This statute is the subject of an acute and able discussion by Mr. Dougherty, which deserves high consideration.

A difficulty in Florida was that the interval between Election (November 7) and the day appointed for the Electors meeting (the first Wednesday in December) was too short to allow for an official canvass and also for a subsequent judicial review resulting *in a judgment before the voting by the electors*.

This difficulty is met in the new statute by postponing until the second Monday of January the meeting of the electors, and making conclusive any determination judicial or otherwise announced *six days* (!) previously according to State laws enacted prior to the preceding election.

‘ All that could be done by way of investigation before that time was done, as appears by the certificate of the Attorney General, which was also given to the Tilden Electors on the same 6th of December. Without a moment’s delay the Tilden electors sued out a writ of *quo warranto* against the usurpers, and by extreme diligence caused it to be served on them one hour before they cast their votes.

‘ Weighed in the light of these suggestions, the proposition that subsequent investigation cannot be made is monstrous, as it shows a mockery of justice. You may investigate before the votes are cast, when it is impossible for want of time, but you shall not after that, as you would then have an opportunity to ascertain the truth.’ ”

Accepting unhesitatingly this view of Justice Clifford, I concede that there are still some who differ from it as applicable to the controversy of 1876, though it is not believable that to-day any responsible statesman would dream of applying to any present controversy a ruling such as that which took Florida away from Tilden and gave it to Hayes. If there be any impartial being who now would justify such a procedure at this time, I have been unable by careful and repeated inquiry to discover him.

It is appalling to reflect that the destinies of Mr. Tilden, of the Democratic party and of the Nation were subject to determination, and actually were determined, by an obscure even if honest-minded country physician, acting contrary to what Florida Courts held to be Florida law, and (as testified by General Barlow) in disregard of his conscientious scruples as expressly stated by him. His associate McLin in a craven letter (S. R. No. 611 above cited, page 499) begged for reward by appointment as federal judge, a position to which he was nominated by Mr. Hayes though not confirmed by the Senate and, within two years he publicly impeached the validity of the action taken by himself in canvassing the votes for Hayes (H. R. Mis. Doc. 31 Pt. 2 : 45th Cong. pp. 98-99 : Life Vol. 2, pp. 22-29). No wrong could be greater than the evils possible through legislation or decisions investing such a body of three with



power to reverse the will of thousands of voters as evidenced by these ballots cast independently of each other at hundreds of polls. To this situation also may be applied the words of Mr. Tilden with reference to a Congressional Commission :

“ So great a stake as the government of forty millions of “ people with immense civil expenditures and a hundred “ thousand office holders to be disposed of by a small body “ sitting in the capital would become the sport of intrigue “ or fraud ” (Letters, Vol. 2, p. 532).

In this record, which I believe to be incontestibly true, I, for one out of millions, am unable to discern how a meritorious title for the Hayes electors in Florida can be discovered by any one whose vision is not distorted by partisan bias.

5. In the State of Louisiana the conduct of the Returning Board was nauseating. <sup>(1)</sup> It revolted fair-minded Republicans. Mr. Rhodes reviews its action at length (Vol. 7, pp. 231-236), and says (p. 284), that Mr. Hayes “ ought to

<sup>(1)</sup> “ It is needless to say that the result announced by the returning board had been attained by a series of grossly partisan and illegal acts. The board had failed to obey the statute requiring them to fill the vacancy in their membership. They had entertained protests which had been irregularly made. \* \* \* One or more of them it appears had even altered and falsified the returns from Vernon and perhaps from other parishes. For this offense they were all in the following year indicted : and one of them, Anderson, was tried, convicted and sentenced to the penitentiary for two years, though subsequently released on a point of law (Haworth, “ Disputed Presidential Election of 1876,” p. 116).

This is the same board whose character was certified in the following remarkable letter to Mr. Hayes from John Sherman (Recollections, Vol. 1, p. 558) : “ That you would have received at a fair election a large majority in Louisiana no honest man can question ; *that you did not receive a majority is equally clear.* But that intimidation of the very kind and nature provided against by the Louisiana law did enter into and control the election, in more election polls than would change the result I believe as firmly as that I write this. \* \* \* The whole case rests upon the action of the returning board. I have carefully observed them, and have formed a high opinion of Governor Wells and Colonel Anderson. *They are firm, judicious and, as far as I can judge, thoroughly honest and conscientious* ” (23d November, 1876).

have stopped the action in his favor of "the Louisiana Returning Board." President Seely, Republican and highly honored Representative from Massachusetts, declined to vote to count this Louisiana return, giving his reasons upon the floor of the House as follows :

" I find it therefore quite impossible to say which of the  
 " two sets of electors coming up here with their certificates  
 " voice the true will of the people of Louisiana in the late  
 " election and therefore equally beyond my power to assent  
 " to the propriety of counting either. \* \* \* Granted  
 " that the decision reached is fairly within the bond ; yet  
 " what if the pound of flesh cannot be taken with out its  
 " drop of blood."

6. This, as it seems to me was the true and sound doctrine. Nothing short of a solution according to the merits would have satisfied or ever will satisfy a great and intelligent people. Patient and fair consideration would have found legal grounds sufficient for decision according to the merits. Such consideration conceivably might have involved, as with President Seely it did involve, a rejection of the entire vote of Louisiana as tainted with Republican corruption and Democratic intimidation. Such a rejection, however, would have fallen short of the necessities of the Hayes canvass which required that not one of the disputed votes should be rejected but that every one of them should be counted, and be counted for Hayes. This, as I have said, was done in defiance of both precedent and principle.

In attempted justification of this violation of the rule of government according to the ballots cast, it has been and is said (following John Sherman's letter to Mr. Hayes) that the colored people were not permitted to vote as then they were entitled to vote, and therefore that the votes of Florida and Louisiana were to be counted upon the basis of the relative populations white and colored.

In reply it may fairly be observed that upon this theory the holding of any election in those states was a work

of supererogation, their vote for Hayes being foreordained. It may also be asked whether, in advance of election day, the Hayes managers would have dared to disclose a plan such as that by them subsequently adopted; whether in October 1876 they would have ventured to declare, as in December 1876 they did declare, that whatever their vote, Florida and Louisiana would be counted for Hayes, thus turning election day in those States into a farce, and the campaign and the process of election into mere mockery?

The answer to this question of course can only be imagined, for as Mr. Tilden was accustomed to say, "You cannot state the consequences of what never happened." It requires, however, no stretch of imagination to assume that a seasonable and public announcement before election day of a purpose so revolutionary <sup>(1)</sup> would have affronted enough Northern voters to turn the scales in at least one of four Northern doubtful states, which went against Tilden by narrow margins; Nevada and Oregon by less than 1,100 and California and New Hampshire by less than 3,100. The tide was running for Tilden, not in the South alone, but also in the North, where he received forty-seven per cent. of the vote, coming within 7,500 votes of

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<sup>(1)</sup> Though no such announcement may have been made before the election, the contingency of a dispute was indicated by Murat Halstead addressing a New York Republican meeting, October 26, 1876, in a speech remarkable for its partisan foresight. He said :

"The October elections have not as in other days settled the question of the presidency. What if the November election also should be inconclusive? What if the result of the question of Tilden or Hayes for President rested upon a Southern State, upon Mississippi or South Carolina, with a derringer in one hand and a bayonet in the other; and the heated politicians gathering at Washington and desperate, should fly at each other's throats and let slip the dogs of war. A disputed presidential election would Mexicanize us. There is incalculable ruin in it. If the New York vote is given to the Democratic candidate we are immediately threatened with this degradation. If New York is Republican the danger is over."

But New York refused to be stampeded and by the size of its majority for Tilden emphasized its resentment of such attempted intimidation of an entire State.

Hayes in his own State of Ohio, a difference of only seven-tenths of one per cent.

But here and now in a study of Mr. Tilden's character the question is not how in fact, did Florida and Louisiana go but what was the belief of Mr. Tilden as to how they went, and how did he act upon his belief?

That Mr. Tilden believed sincerely that Hayes was not entitled to those states cannot be doubted after reading Mr. Bigelow's story of his life during these momentous 100 days.

Thus believing and believing also that he was about to be defrauded of this greatest of public offices, he might have resorted to fraud or to force, or he might submit patriotically, as to his everlasting credit he did submit. To the proposition that the judges should be selected by lot Mr. Tilden answered that he might lose the presidency, but that he would not raffle for it (Letters, Vol. 2, p. 531).

As to fraud, the outrageous charge denied by him under oath was refuted by the very events themselves. As was well said by the Bookman (March, 1905, p. 40):

"The facts are very convincingly summed up by Mr. Tilden's biographer, Mr. Bigelow:

'Only one vote was required to elect Mr. Tilden. The votes of three States were in the market, and at a price which Tilden could easily have paid. Tilden did not get that vote. Hayes needed the votes of three States. All were for sale. Hayes got them all and was elected, and, within six months after his inauguration every person known to have been concerned in securing or giving those votes, from the highest to the lowest, received an office or the offer of one from Mr. Hayes.'"

And Mr. Rhodes justly observes (Vol. 7, p. 244):

"Tilden's course in these matters was really above reproach."

As to force, but a single word from Mr. Tilden was needed and as shown by Mr. Watterson in his Century Article, the countryside like the field of Jason would have brought forth men and possibly (as suggested by Mr. Joseph Pulitzer)

armed men in multitudes led by soldiers and generals conspicuous for ability and for heroism in the Union armies. No one having personal knowledge of the intense strain in those four months preceding March 4th, 1877, can doubt that upon a call from Mr. Tilden thousands upon thousands of his supporters, representing a majority of his countrymen, an enormous majority of his white countrymen would have arisen in determined assertion of his rights. <sup>(1)</sup>

God's mercy and Mr. Tilden's forbearance alone saved this country from an awful outbreak.

Like the philosopher and the lawyer that he was, he devoted himself calmly to an examination of precedents, to the preparation of arguments and to conferences with his supporters. In his view only Congress acting in both Houses jointly could count the vote. Mr. Hayes, writing to John Sherman (Recollections, p. 56), stated that he believed that the Vice-President alone had the constitutional power to count the vote and to declare the result. This position was rendered untenable by the unanswerable arguments of

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<sup>(1)</sup> It is difficult vividly to reproduce the sense of outrage then felt by the Tilden supporters. Just now (Feb. 11, 1914) I have received from one of the most eminent of the clergyman and theologians of this country, himself a soldier in the Union army during the war between the States, a letter from which I make the following extract: "I was one of Mr. Tilden's most ardent admirers and when his election was disputed and Dr. S— remarked to me that peace or war depended on Mr. Tilden, I replied: 'If I were Mr. Tilden and were as clearly elected as he is I would have the presidency if I had to make the country tremble from one end to the other.'"

Intense bitterness of feeling had developed also among the supporters of Hayes. Even George William Curtis who was destined in 1884 to contribute so powerfully to bring in Grover Cleveland and the Democratic party, could hardly find words in 1876 adequate for his denunciation of the Democrats. In a November issue of *Harper's Weekly* he contributed these pleasant words of pacification: "It is not easy to express the contempt which an intelligent American feels for those Democrats who having always defended slavery and secession now talk of letting by-gones be by-gones &c."

Surely the atmosphere was charged with explosives.



Conkling and of Edmunds whose party spirit in this instance yielded to his superior legal instinct about to discover a way of happy escape through his invention of an Electoral Commission which, however disappointing to us, still must be placed principally to the credit of Senator Edmunds.

When finally for whatever reason both houses of Congress had united in counting the votes for Hayes this procedure was accepted by Mr. Tilden as final for reasons set forth by John Bigelow in a letter dated May 2, 1880, and soon afterwards published in the "Nashville Banner."

The denial of his right, resting on a popular majority of more than 250,000, was no surprise to Mr. Tilden, who had held the opinion

"that the opposition attempting to change the administration needed to include at least two-thirds of the voters at the opening of the canvass in order to retain a majority at the election." (Life, Vol. II, p. 269.)

Contemplating this patriotic attitude of Mr. Tilden, that wise statesman Senator Elihu Root, in his Yale Lecture on the Duties and Responsibilities of Citizenship (N. Y. Sun May 21, 1907), expressed himself as follows :

"It has always seemed to me that Mr. Tilden pursued a very patriotic and commendable course when the election to the Presidency was in question between him and Mr. Hayes in 1876. \* \* \* There was a question that inevitably would have resulted in civil war in any country where the personal idea was predominant in politics, and there were in this country men of high character and standing who urged that Mr. Tilden's title to the office should be asserted by armed force, but he was decided and immovable in the position that he would permit no breach of the peace of the country in his behalf, whether he got the Presidency or not. The question was finally submitted to a special court devised for the purpose, and the court by a majority of one decided in favor of Mr. Hayes. So Mr. Tilden lost the Presidency ; but he gained what was of far greater value—a title to the esteem and gratitude of all good citizens. He probably rendered a greater and more permanent public service than by anything he could have done as President."

Notwithstanding sharp diversities of opinion contemporary and historical, the conduct of Mr. Tilden in the winter of 1876-7, seems to me to have been perfectly consistent with the correct principles which had governed his entire political life. As long before as in November, 1860, with almost passionate earnestness he had declared to a group of friends :

“ I would not have the responsibility of William Cullen Bryant and John Bigelow for all the wealth in the sub-treasury. If you have your way civil war will divide this country, and you will see blood running like water in the streets of this city”. (Life, Vol. 1, p. 154.)

Responsibility for such a condition he could not assume in 1877 any more than in 1860. Love of the Union and horror of fratricidal strife dominated his entire nature, and he had to obey the law of his being. His course was justified by the results to the country. The Hayes Administration comprising wise men of foresight, devoted itself to conciliating the Tilden supporters who, as already observed, constituted a vast majority of the white voters of the country. The Southern States were pacified and reinvested with self government. The Northern Independents were won back by the policies of civil service reform, financial reform and administrative reform. Thus the objects for which Mr. Tilden stood were gained in a considerable degree, though he lost the Presidency for which he was preferred by the people.

It is regrettable that the country and especially that the Democratic party lost the benefits and the education that would have come from the administration of an executive officer whose service would have been prized by every large corporation in the country, and of the most highly developed political philosopher that our country had produced since Thomas Jefferson. Nevertheless, the conciliatory course of the Hayes Administration proved so acceptable as to justify a remark made to me in 1880 at the Cincinnati Convention

by a democratic leader : "The Hayes Administration has "made it difficult and probably impossible for us to win."

Endeavoring justly to estimate the self-restraint and the patriotic self-effacement of Mr. Tilden in this national crisis, I have been led to wonder what would have been the action and the consequences of the action of Mr. Blaine or of Colonel Roosevelt had either of them been similarly circumstanced. <sup>(1)</sup>

Thus ended the political activities of Mr. Tilden, for though twice again, in 1880 and in 1884, he was sought by his party as its candidate, he felt himself physically unfit to meet the tremendous exactions of a campaign, and to undertake the ceaseless toil, inseparable from the proper discharge of the duties of public office as conceived by him. In each year he wrote a letter declining to be considered in connection with the nomination.

In the Cincinnati Convention in 1880 his letter (*Life*, Vol. II, p. 266) produced a profound sensation, Mr. Abram S. Hewitt stating in my hearing, that upon such a declaration the Democracy was bound to nominate Mr. Tilden, and if he were to die during the campaign then to vote for his memory, as was done in 1872 by some Georgia Electors in the case of Horace Greeley after his death.

In anticipation of the Chicago Convention of 1884 Mr. Tilden published a letter of final withdrawal (*Life*, Vol. II, p. 282), a letter which, as justly observed by the *New York Times*, was an act of unselfishness, of great moment and of promise, for otherwise he would have been nominated with-

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<sup>(1)</sup> To avoid any possible misconstruction of my position, if that be of consequence, I may be permitted to state that, in my opinion, after the declaration of the result according to the vote of both Houses of Congress, Mr. Hayes held the office of President by a title legally unimpeachable, though based upon frauds beyond correction. I readily acknowledge that had Mr. Tilden been seated, the supporters of Mr. Hayes generally would have felt that the Presidency had been stolen by force. I desired and, despite my disappointment, I still am satisfied with, the peaceable solution of the difficulties.

out dissent, and as his party believed with assurance of success at the polls.

The closing paragraph of that letter was worthy of Seneca or of any other classic sage :

“ Having given to their welfare whatever of health and strength I possessed or could borrow from the future, and having reached the term of my capacity for such labors as their welfare now demands, I but submit to the will of God, in deeming my public career forever closed.”

Once and only once again, in December, 1885, did he address the general public through a letter to Speaker Carlisle, making a powerful and effective plea for strengthening our coast defences ; a plea afterwards reinforced by the action of President Cleveland, and his Secretary of War, Judge Endicott.\*

But his interest in the public and in his beloved city of New York were still to be manifested in a way and to an extent amazing to those who had been accustomed to regard him merely as a selfish accumulator of money for his own selfish ends. During his years of retirement at Greystone, his country home, he was planning how best to confer upon the people of this city the benefits of a gift larger than any up to that time made by any benefactor, unless possibly Mr. James Lenox. His entire residuary estate amounting to about \$4,000,000 was destined for the public good. Unhappily his testamentary provision to this effect was set aside by the Courts, once more by a majority of one, and upon grounds which in the judgment of learned lawyers like Dean Ames of the Harvard Law School were deemed insufficient (Lectures on Legal History, p. 283). However, thanks to

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\* The regrettable coolness that developed between Mr. Tilden and President Cleveland is not a matter for surprise. One who has been acknowledged leader does not readily welcome displacement or cordially consider the one who seems to be in his place. A similar condition marked the relations of Fremont to Lincoln and of Roosevelt to Taft. Mr. Wilson and Mr. Bryan in the cordiality of their intercourse greatly to their credit have established a precedent.

the filial disposition of his great niece Mrs. Laura Pelton Hazard an arrangement was effected whereby more than \$2,000,000 was provided out of her share for the Tilden Trust, now forming part of the New York Public Library. The practical benefit of that institution is indicated by the statement of its director to me, that it is used by more readers than any other public library in the world.

To the end as at the beginning Mr. Tilden was a philosopher, an idealist and in some sense a mystic. As acutely observed by Mr. Watterson "He was a dreamer with a genius for business, a philosopher, yet an organizer." His inner soul and purpose was disclosed in his letter to the Cincinnati Convention (Public Writing Vol. 2, 503) when he wrote :

"Through the whole period of my relation to the presidency I did everything in my power to elevate, and nothing to lower moral standards in the competition of the parties."

This was in accord with his standard of personal conduct. Base and vulgar detractions of political adversaries in and out of his own party ignored the fact that his associations never were with the base and vulgar, but always with men of the highest character. *Noscitur a sociis*. His trusting and trusted friends were Bryant and Bigelow and O'Connor, and Carter and Oswald Ottendorfer and Andrew H. Green and William Allen Butler, from whose Memorial delivered at the request of the New York City Bar Association upon December 14th, 1886, I quote the following testimonial of professional esteem :

"It is a duty as well as a privilege within our own circle to assert his claim to the respect and gratitude of his brethren of the bar and of the community at large, in those matters as to which we speak what we know and testify what we have seen. In the rush of events and especially in the ever recurring struggles with present wrong-doing, public and private, we are apt to be forgetful of past dangers and past deliverances, and of the work of those by whom the deliverances were wrought. It is in the retrospect of the great public peril which summoned Mr. Tilden to aid in the rescue of the State



“and of the peculiar service which he gave with unselfish and untiring fidelity and with full success, that we find as in a focus, the converging force and radiance of his best faculties and gifts; a cheering and guiding light, unobscured and inextinguishable.”

And, again, having reference to Mr. Tilden's conscientious thoroughness; a trait and a habit indicating integrity of character, Mr. Butler thus commented upon the harmonious consistency of Mr. Tilden's intellectual activities.

“The same habit he brought into his private affairs, his professional work and his political activities. Alike to all objects which engrossed him he gave the whole of his intellectual capacity, all the energy of his will and the full measure of his physical strength. He had a persistence which was more than perseverance, and a faculty of adhesion to the main purpose in view, and of reaching it by discussion, by investigation, and by all means of possible solution, which exhausted the powers and the patience of every one but himself.”

William Cullen Bryant's high regard for Mr. Tilden is shown in his letter of August 28, 1876, to Mr. Bigelow (*Life of Bryant*, Vol. 2, p. 376), as follows :

“It gives me great pain to refuse anything to the friend of a man whom I esteem and honor as I do Mr. Tilden, and whom I know to be so highly accomplished for the most eminent political station; whose opinions of the proper province and objects of legislation have been formed in the same school as my own, and who, so far as his party will not obstruct him, will I am sure act not only with ability and integrity but with wisdom in any station to which the voice of his countrymen may call him.”

But for a comprehensive appreciation of his character by one of the most commanding personalities of the American bar distinguished alike for his virtues and his talents nothing can be more instructive than the tribute by James C. Carter published in the *Atlantic Monthly* for October, 1892, and republished by Mr. Bigelow in the *Letters and Literary Memorials* (Vol. 1, p. xi.). I extract but a single sentence from an extended article worthy of complete consideration.

“I cannot help thinking that Governor Tilden possessed on the whole greater capabilities for usefulness in public

“ life than any other man of his generation. I cannot find anywhere else such a union of the ability to discover true governmental policies with the firm and undeviating purpose to pursue them. \* \* \* I do not think that any other public man of his time was more faithful to his conception of truth.”

Again I observe : What a pity that the nation could not have had the benefit of the public service of such a citizen !

In his professional, and in his business life, his pre-eminence was not less pronounced than in his public career.

During the decade of the sixties and earlier Mr. Tilden was a pioneer and a leader in the development of the railways and of the resources of the Middle West especially in Ohio, in Indiana, in Illinois and Upper Michigan. “ More than half of the great railways north of the Ohio and between the Hudson and Missouri Rivers were at some time his clients ” (Life, Vol. 1, p. 143). His legal acumen and foresight in matters of corporate reorganization then without precedents are indicated in his letters to his friend Mr. Justice SWAYNE (Letters, Vol. 1, pp. 129-141 ; Public Writings, Vol. 1, p. 592), with whom he was cooperating, and in his association with John Sherman, who referring to this period says (Recollections, Vol. 1, p. 551) :

“ I knew Mr. Tilden personally and very favorably as we were members of a board of railroad directors which frequently met.”

The public value of such services is overlooked so frequently that it is fitting to quote from the appreciative letter addressed to Mr. Tilden under date of November 27, 1880, by the venerable and Reverend Dr. A. T. McGill, the Senior Professor of the Princeton Theological Seminary (Letters, Vol. 2, p. 606) :

“ I cannot refrain from writing to you as I often desired to do in the past, to testify my respect and admiration alike when you were covered with merited honors and persecuted with unmerited obloquy \* \* \* . I am indebted to you for the surpassing ability and probity, with which in connection with Lanier you saved my savings which I had

invested in the Pennsylvania and Ohio now The Wayne Railroad. It was therefore my duty when you were abused by various lying papers on every occasion to tell my own personal knowledge of the rare integrity with which you secured to a multitude of poor men what we thought was lost in the bankruptcy of that great road."

The personal side of Mr. Tilden often is touched upon by Mr. Bigelow, in such wise to reveal him, as in truth he was, a man of patience, bearing many burdens of which not all originated outside of his own family (Letters, Vol. 1, p. 327; Bigelow's Retrospections, Vol. 5, pp. 395-402). Though often reviled, he reviled not again, and he refrained from speaking ill of others (Life, Vol. I., pp. 389-390; Vol. II., p. 389). He was capable of great tenderness as in his letters to his sister (Life, Vol. I., pp. 80-84), of romantic friendship as suggested in his will (Article xxii., Life, Vol. 2, p. 426), and of high idealism, as shown in his letter to Mrs. Franklin Chase (Letters, Vol. 1, pp. 68-72) upon which referring to the two volumes of the letters "The Outlook" commented as follows (15 Aug., 1908):

"For one thing, his disinterestedness stands plainly revealed in his own correspondence and in that of his friends. So, too, does his lofty earnestness, which is nowhere better indicated than in a letter he wrote at the age of thirty-six. 'My disposition,' he observes, 'is not to permit merely private business to engross me, nor to be in any of an unprofessional nature which creates anxiety. I have never been accustomed to surrender to it my inner life, or to allow its cares to fill those little interstices between actual occupation which are instinctively given to, and which characterize, our ruling habits of thought and feeling. There no doubt is danger, as the relations of business multiply around us, and our enthusiasm for public objects is qualified or weakened, and our sympathies often come back upon us as the chilled blood returns from the extremities to the heart, that what furnishes occupation to our activity without the trouble of seeking it, and without making us inquire whether we choose it, will grow too much upon our attention. But I desire to reserve something to better purposes—something to friends and to myself, and possibly, if hereafter I can recall the enthusiasm

of early years, with a share of its former strength and steadiness, something to consecrate life by a sense that it has not been wholly given to objects so selfishly egotistical as are most of those which we pursue.' (To Mrs. Franklyn Chase, 29 Nov. '50. 1 Letters, p. 71.)

"Read in the light of Tilden's after career—of his work as leader in the impeachment proceedings against Barnard and Cardozo, in the Tweed prosecutions generally, in the fight against the Canal Ring, and in the manner of his acceptance of the verdict of the Electoral Commission withholding the Presidency from him—the absolute sincerity and vital significance of this letter are unmistakable. It aids in the understanding both of Tilden's conduct of life and of the seemingly extravagant esteem in which he was held by his intimate friends."

His recreation was found chiefly in riding and driving and in books. The list of the 800 volumes read to him in his last four years (Life, Vol. 2, pp. 348; 410-419) is surprising in its range. Like Samuel Pepys, as observed by Robert Louis Stevenson, he seems to have had "an insatiable curiosity in the things of knowledge." Frugal and simple in his habits and expenditures (Life, Vol. 2, p. 384) he gave liberally to private charities, nearly as much as all others to the fight against Tweed (Public Writings, Vol. 1, p. 595) and generally more than anyone else to political causes <sup>(1)</sup> (Life, Vol. 2, p. 392).

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<sup>(1)</sup> In a non-presidential canvass after 1876 (as I was told at the time by Mr. W. C. Whitney) Mr. Tilden had given more than \$150,000 to make an effective canvass and to get out the voters and to bring them to the polls in the 3,000 election districts of New York State. Such a sum could be spent legitimately for these purposes. In a rural county one of the "workers" of 1876, referring to that election, afterwards said to me "There was plenty of money then for early carriages, but little for late ones." Such was his usual exaction of others. "Whenever you leave to go anywhere for me, take the first train, not the second," were his instructions to his business agents, as one of them told me. For himself he was a procrastinator on principle "I do to-day nothing that can just "as well wait, for to-morrow may show that it were better left undone."

The latter day increase in the scale of political expenditures is shown by the subscription (Letters, Vol. 1, p. 245) for the democratic presidential canvass of 1868 when \$80,000 was raised by contributions of \$10,000 each by Mr. Tilden, Mr. O'Connor and six others.

His life covered the stormiest period in the history of our republic. Born during one war he lived through two others, and he participated in the struggles against nullification, against slavery extension, against secession, against reconstruction, and against public frauds. No other man can be recalled who during so long a period touched more importantly or more variously the political activities of his native State. Out of this long and active public life, he emerged without any just cause of reproach upon his character with a large fortune, accumulated mainly for the benefit of the public, and with overwhelming right to the gratitude of his countrymen.

His fellow citizens do well to gather in commemoration of his great career and his great civic virtues; and well may we recall what Mr. Bigelow justly terms the noble lines of Whittier.

“ Once more O all adjusting Death  
 “ The Nation’s Pantheon opens wide  
 “ Once more a common sorrow saith  
 “ A strong wise man has died.

“ Faults doubtless he had. Had we not  
 “ Our own to question and asperse,  
 “ The worth we doubted or forgot  
 “ Until we stood beside his hearse?

“ Ambitious, cautious yet the man  
 “ To strike down fraud with resolute hand;  
 “ A patriot, if a partisan  
 “ He loved his native land.

“ So let the mourning bells be rung  
 “ The banner droop its folds half-way  
 “ And let the public pen and tongue  
 “ Their fitting tribute pay.

“ Then let us vow above his bier  
 “ To set our feet on party ties  
 “ And wound no more a living ear  
 “ With words that death denies.”









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